

R.S. 40 : 55-54 et seq.

December 19, 1968

LEGISLATIVE HISTORY OF R.S. 40:55-54 et seq. (Municipal Plan^{ned} Unit Development)

Similar bill previously introduced in 1966, S321.
Died in Committee.
No statement and no amendment to the bill.

1967, S60
Died in Committee.
No statement and no amendment to the bill.

COPY NO. 1
for material
see copy 2, 3

Source of statute is:

L. 1967, Chapter 61 S452
April 10 - Introduced.
April 17 - Passed in Senate.
May 1 - Passed in Assembly, amended.
May 8 - Assembly amendments passed in Senate.
May 23 - Approved.
Amendments during passage, but no statement to the bill.

Further information on subject in:

TB33 Krasnowiecki. Legal aspects of planned unit
C7 residential development, with suggested legislation.
K89 *missing* Washington, Urban Land Institute, 1965.

LP "Planned Communities for New Jersey," The Barrister,
~~NJ~~ volume 17, no. 6, June 1967.
B223

LP Sussna, Stephen. "Zoning; Realit. and Prospects," (Pts. III + IV)
N N.J. State Bar Journal, vol. 9, p. 1467, 1502, 1511
and 1546. (Pts. I + II of article are historical)

LP Smith, Wendell A. "Flexible Zoning," Newsletter,
NJ N.J. State Bar Association. Section on Municipal
M966 and School Law; vol. III, no. 4, May 1968.

Checked "N.J. Municipalities" from 1966 to date. Found nothing.

For newspaper articles and pamphlets on subject see vertical
file under "N.J.--City Planning".

"Planned Housing Gains Acceptance in South Jersey", Courier-Post
Camden, N.J., July 7, 1967, p. 8.

JK/PC

CHAPTER 61 LAWS OF N. J. 1967

APPROVED 5-23-67
[OFFICIAL COPY REPRINT]

SENATE, No. 452

STATE OF NEW JERSEY

INTRODUCED APRIL 10, 1967

By Senators BIGLEY and SCHOLZ

(Without Reference)

AN ACT concerning municipalities in relation to zoning, authorizing and providing for planned communities as herein defined, and supplementing chapter 55 of Title 40 of the Revised Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

3 1. Purposes. In order that the public health, safety, morals and
4 general welfare be furthered in an era of increasing urbanization
5 and of growing demand for housing of all types and design; to
6 provide for necessary commercial and educational facilities con-
7 veniently located to such housing; to provide for well located, clean,
8 safe, pleasant industrial sites involving a minimum of strain on
9 transportation facilities; to encourage the planning of new towns;
10 to insure that the provisions of Revised Statutes 40:55-30, et seq.,
11 which direct the uniform treatment of dwelling type, bulk, density
12 and open space within each zoning district, shall not be applied to
13 the improvement of land by other than lot by lot development in
14 a manner that would distort the objectives of Revised Statutes
15 40:55-30, et seq.: to encourage innovations in residential, com-
16 mercial and industrial development and renewal so that the grow-
17 ing demands of the population may be met by greater variety in
18 type, design and layout of buildings and by the conservation and
19 more efficient use of open space ancillary to said buildings; so that
20 greater opportunities for better housing and recreation, shops and
21 industrial plants conveniently located to each other may extend to
22 all citizens and residents of this State; and in order to encourage a
23 more efficient use of land and of public services, or private services
24 in lieu thereof, and to reflect changes in the technology of land
25 development so that resulting economies may enure to the benefit of
26 those who need homes; to lessen the burden of traffic on streets and
27 highways; to encourage the building of new towns incorporating

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

1 the best features of modern design; to conserve the value of the
1A land; and, in aid of these purposes, to provide a procedure which
2 can relate the type, design and layout of residential, commercial
3 and industrial development to the particular site and the particular
4 demand for housing and other facilities including the foregoing at
5 the time of development in a manner consistent with the preserva-
6 tion of the property values within established residential areas and
7 to insure that the increased flexibility of substantive regulations
8 over land development authorized herein is subject to such admin-
9 istrative standards and procedures as shall encourage the disposi-
10 tion of proposals for land development without undue delay, the
11 following powers are granted to all municipalities not in derogation
12 of powers heretofore granted.

13 2. Application of statute. The powers granted herein may be
14 exercised by any municipality which enacts an ordinance that shall:

15 (a) Refer to this act;

16 (b) Include a statement of objectives of development, as herein
17 defined;

18 (c) Designate the ***[local agency]*** *municipal authority* which
19 shall exercise the powers of the municipal authority, as herein
19A defined;

20 (d) Set forth the standards of development consistent with the
21 provisions of section 3 hereof; and

22 (e) Set forth the procedures pertaining to the application for,
23 hearing on and tentative and final approval of a planned unit
24 development, which shall be consistent with sections 5 through 9
25 of this act.

26 *(f) Require a finding by the municipal authority, prior to ten-
27 tative approval of any plan for a planned unit development as
28 provided herein, that said plan is in general conformity with the
29 provisions of Revised Statutes 40:55-32 and any master plan for
30 the municipality adopted pursuant to the "Municipal Planning
31 Act," chapter 433 of the laws of 1953, and that the proposed planned
32 unit development will not have a substantially adverse effect on the
33 development of the neighboring area.*

34 The enactment of an ordinance pursuant to the powers granted
35 herein, and the enactment of an amendment thereto, shall be in
36 accordance with the procedures required for the adoption of an
37 amendment to a zoning ordinance as provided in Revised Statutes
38 40:55-34 and Revised Statutes 40:49-2, et seq.

39 3. Standards and conditions for planned unit development.
40 Every ordinance adopted pursuant to the provisions of this act
41 shall set forth the standards and conditions by which a proposed

1 planned unit development shall be evaluated. The municipal
1A authority may prescribe, from time to time, rules and regulations
1B to supplement the standards and conditions set forth in the ordi-
1C nance provided (1) said rules and regulations are not inconsistent
1D with said standards and conditions, (2) said rules and regulations
2 are placed of public record, and (3) any amendment or change of
3 said rules and regulations shall not apply to any plan for which an
4 application for tentative approval has been made prior to the
5 placing of public record of said amendment or change. Said
6 standards and conditions and all supplementary rules and regula-
7 tions established for a particular planned development authorized
8 pursuant to such ordinance shall not be inconsistent with the
9 following provisions:

10 (a) Permitted uses. An ordinance adopted pursuant to this act
11 shall set forth the uses permitted in a planned unit development,
12 which uses may include and shall be limited to (1) dwelling units
13 in detached, semidetached, attached, groups of attached or clustered
14 or multistoried structures, or any combination thereof; and (2)
15 any nonresidential use, to the extent such nonresidential use is
16 designed and intended to serve the residents of the planned unit
17 development, and such other ***[users]*** *uses* as exist or may rea-
18 sonably be expected to exist in the future, and (3) public and private
19 educational facilities, and (4) industrial uses and buildings.

20 An ordinance may establish regulations setting forth the timing
21 of development among the various types of uses and subgroups
22 thereunder, and may specify whether some nonresidential uses are
23 to be built before, after or at the same time as the residential uses.

24 (b) Residential density.

25 (1) An ordinance adopted pursuant to this act shall establish
26 standards governing the density, or intensity of land use, in a
27 planned unit development.

28 (2) Said standards shall take into account that the density,
29 or intensity of land use, otherwise allowable on the site under
30 the provisions of a zoning ordinance previously enacted pur-
31 suant to Revised Statutes 40:55-30, et seq., may not be appro-
32 priate for a planned unit development. The standards may
33 vary the density, or intensity of land use, otherwise applicable
34 to the land within the planned unit development in considera-
35 tion of (a) the amount, location and proposed use of common
36 open space, (b) the location and physical characteristics of the
37 site of the proposed planned unit development, and (c) the
38 location, design and type of dwelling units and other uses.

39 (3) In the case of a planned unit development proposed to

1 be developed over a period of years, such standards may, to
1A encourage the flexibility of housing density, design and type
1B intended by this act, authorize a deviation in each section to be
1C developed from the density, or intensity of use, established for
1D the entire planned unit development. The ordinance may
2 authorize the municipal authority to allow for a greater con-
3 centration of density, or intensity of land use, within some sec-
4 tion or sections of development, whether it be earlier or later
5 in the development, than upon others. The ordinance may
6 require that the approval by the municipal authority of a
7 greater concentration of density or intensity of land use for
8 any section to be developed be offset by a smaller concentration
9 in any completed prior stage or by an appropriate reservation
10 of common open space on the remaining land by a grant of
11 easement or by covenant in favor of the municipality, provided
12 that such reservation shall, as far as practicable, defer the
13 precise location of such common open space until an applica-
14 tion for final approval is filed, so that flexibility of development
15 which is a prime objective of this act, can be maintained.

16 (c) Common open space. The standards for a planned unit
17 development established by an ordinance adopted pursuant to this
18 act shall require that any common open space resulting from the
19 application of standards for density, or intensity of land use, be set
20 aside for the use and benefit of the residents in such development
21 and shall include provisions by which the amount and location of
22 any common open space shall be determined and its improvement
23 and maintenance for common open space use be secured, subject,
24 however, to the following:

25 (1) The ordinance may provide that the municipality may,
26 at any time and from time to time, accept the dedication of
27 land or any interest therein for public use and maintenance,
28 but the ordinance shall not require, as a condition of the
29 approval of a planned unit development, that land proposed
30 to be set aside for common open space be dedicated or made
31 available to public use. The ordinance may require that the
32 landowner provide for and establish an organization for the
33 ownership and maintenance of any common open space, and
34 that such organization shall not be dissolved nor shall it dispose
35 of any common open space, by sale or otherwise (except to an
36 organization conceived and established to own and maintain
37 the common open space), without first offering to dedicate the
38 same to the municipality or **any** other government agency.

39 (2) In the event that the organization established to own and
40 maintain common open space, or any successor organization,

1 shall at any time after establishment of the planned unit
1A development fail to maintain the common open space in reason-
1B able order and condition in accordance with the plan, the mu-
1C nicipality may serve written notice upon such organization or
2 upon the residents and owners of the planned unit development
3 setting forth the manner in which the organization has failed
4 to maintain the common open space in reasonable condition,
5 and said notice shall include a demand that such deficiencies of
6 maintenance be cured within 30 days thereof, and shall state the
7 date and place of a hearing thereon which shall be held within
8 14 days of the notice. At such hearing the municipality may
9 modify the terms of the original notice as to the deficiencies
10 and may give an extension of time within which they shall be
11 cured. If the deficiencies set forth in the original notice or in
12 the modifications thereof shall be cured within said 30 days or
13 any extension thereof, the municipality, in order to preserve
14 the taxable values of the properties within the planned unit
15 development and to prevent the common open space from be-
16 coming a public nuisance, may enter upon said common open
17 space and maintain the same for a period of 1 year. Said entry
18 and maintenance shall not vest in the public any rights to use
19 the common open space except when the same is voluntarily
20 dedicated to the public by the residents and owners. Before
21 the expiration of said year, the municipality shall, upon its
22 initiative or upon the request of the organization theretofore
23 responsible for the maintenance of the common open space, call
24 a public hearing upon notice to such organization, or to the
25 residents and owners of the planned unit development, to be
26 held by the municipal authority, at which hearing such organ-
27 ization or the residents and owners of the planned unit develop-
28 ment shall show cause why such maintenance by the munici-
29 pality shall not, at the election of the municipality, continue for
30 a succeeding year. If the municipal authority shall determine
31 that such organization is ready and able to maintain said com-
32 mon open space in reasonable condition, the municipality shall
33 cease to maintain said common open space at the end of said
34 year. If the municipal authority shall determine such organiza-
35 tion is not ready and able to maintain said common open space
36 in a reasonable condition, the municipality may, in its discre-
37 tion, continue to maintain said common open space during the
38 next succeeding year and subject to a similar hearing and
39 determination, in each year thereafter. The decision of the
40 municipal authority in any such case shall constitute a final
41 administrative decision subject to judicial review.

1 (3) The cost of such maintenance by the municipality shall
1A be assessed ratably against the properties within the planned
1B unit development that have a right of enjoyment of the com-
2 mon open space, and shall become a tax lien on said properties.
3 The municipality, at the time of entering upon said common
4 open space for the purpose of maintenance, shall file a notice of
5 such lien in the office of the county clerk upon the properties
6 affected by such lien within the planned unit development.

7 (d) Minimum number of dwelling units. No ordinance adopted
8 pursuant to the provisions of this act shall authorize a planned unit
9 that contains less than 5 dwelling units, or less than 5 commercial
10 uses, or 3 industrial uses, singly or in combination.

11 (e) Public facilities. The authority granted a municipality by
12 P. L. 1953, chapter 433 (C. 40:55-1.1 et seq.) to establish standards
13 for the location, width, course and surfacing of public streets and
14 highways, alleys, ways for public service facilities, curbs, gutters,
15 sidewalks, street lights, parks, playgrounds, school grounds, storm
16 water drainage, water supply and distribution, sanitary sewers and
17 sewage collection and treatment, shall be vested in the municipal
18 authority for the purposes of this act. The standards applicable to
19 a planned unit development may be different than, or modifications
20 of, the standards and requirements otherwise required of sub-
21 divisions authorized under an ordinance adopted pursuant to P. L.
22 1953, chapter 433 (C. 40:55-1.1 et seq.) provided however, that an
23 ordinance adopted pursuant to this act shall set forth the limits
24 and extent of any modifications or changes in such standards and
25 requirements in order that a landowner shall be able to know the
26 limits and extent of permissible modifications from the standards
27 otherwise applicable to subdivisions. The limits of such modifica-
28 tion or change established in an ordinance adopted pursuant to this
29 act as well as the degree of modification or change within said
30 limits authorized in a particular case by the municipal authority
31 shall take into account that the standards and requirements estab-
32 lished in an ordinance adopted pursuant to P. L. 1953, chapter 433
33 (C. 40:55-1.1 et seq.), may not be appropriate or necessary for
34 land development of the type or design contemplated by this act
35 or for the planning and creation of a planned community.

36 (f) Other standards and conditions. An ordinance adopted pur-
37 suant to this act shall set forth the standards and criteria by which
38 the design, bulk and location of buildings shall be evaluated, and all
39 standards and criteria for any feature of a planned unit develop-
40 ment shall be set forth in such ordinance with sufficient certainty to
41 provide reasonable criteria by which specific proposals for a

1 planned unit development can be evaluated. All standards in such
1A ordinance shall not unreasonably restrict the ability of the land-
1B owner to relate the plan to the particular site and to the particular
2 demand for housing, commercial or industrial users existing at the
3 time of development.

4 4. Enforcement and modification of provisions of the plan. To
5 further the mutual interest of the residents and owners of the
6 planned community and of the public in the preservation of the
7 integrity of the plan, as finally approved, and to insure that modi-
8 fications, if any, in the plan shall not impair the reasonable reliance
9 of the said residents and owners upon the provisions of the plan,
10 nor result in changes that would adversely affect the public interest,
11 the enforcement and modification of the provisions of the plan as
12 finally improved, whether recorded by plat, covenant, easement or
13 otherwise, shall be subject to the following provisions.

14 (a) Enforcement by the municipality. The provisions of the
15 plan relating to (1) the use of land and the use, bulk and location of
16 buildings and structures, (2) the quality and location of common
17 open space, except as provided in section 3 hereof, and (3) the
18 intensity of use or the density of residential units, shall run in favor
19 of the municipality and shall be enforceable in law or in equity by
20 the municipality, without limitation on any powers or regulation
21 otherwise granted the municipality by law.

22 (b) Enforcement by the residents and owners. All provisions
23 of the plan shall run in favor of the residents and owners of the
24 planned community, but only to the extent expressly provided in
25 the plan and in accordance with the terms of the plan, and to that
26 extent said provisions, whether recorded by plat, covenant, ease-
27 ment or otherwise, may be enforced at law or equity by said resi-
28 dents and owners, acting individually, jointly, or through an organ-
29 ization designated in the plan to act on their behalf; provided, how-
30 ever, that no provisions of the plan shall be implied to exist in favor
31 of residents and owners of the planned unit development except as
32 to those portions of the plan which have been finally approved
33 and have been recorded.

34 (c) Modification of the plan by the municipality. All those pro-
35 visions of the plan authorized to be enforced by the municipality
36 under paragraph (a) of this section 4 may be modified, removed or
37 released by the municipality (except grants or easements relating
38 to the service or equipment of a public utility unless expressly
39 consented to by the public utility), subject to the following con-
40 ditions:

41 (1) No such modification, removal or release of the pro-

1 visions of the plan by the municipality shall affect the rights of
1A the residents and owners of the planned unit development to
1B maintain and enforce those provisions, at law or equity, as
2 provided in paragraph (b) of this section 4;

3 (2) No modification, removal or release of the provisions of
4 the plan by the municipality shall be permitted except upon a
5 finding by the municipal authority, following a public hearing
6 called and held in accordance with the provisions of section 6
7 of this act, that the same is consistent with the efficient develop-
8 ment and preservation of the entire planned unit development,
9 does not adversely affect either the enjoyment of land abutting
10 upon or across a street from the planned unit development or
11 the public interest, and is not granted solely to confer a special
12 benefit upon any person.

13 (d) Modification by the residents. Residents and owners of the
14 planned unit development may, to the extent and in the manner
15 expressly authorized by the provisions of the plan, modify, remove
16 or release their rights to enforce the provisions of the plan but no
17 such action shall affect the right of the municipality to enforce the
18 provisions of the plan in accordance with the provisions of para-
19 graph (1) of this section 4.

20 5. Application for tentative approval of planned unit develop-
21 ment. In order to provide an expeditious method for processing a
22 plan for a planned unit development, ***[which may also be known as**
23 **a planned community,]*** under the terms of an ordinance adopted
24 pursuant to the powers granted herein, and to avoid the delay and
25 uncertainty which would arise if it were necessary to secure
26 approval, by a multiplicity of local procedures, of a plat of sub-
27 division or resubdivision as well as approval of a change in the
28 zoning regulations otherwise applicable to the property, it is hereby
29 declared to be in the public interest that all procedures with respect
30 to the approval or disapproval of a plan for a planned unit develop-
31 ment ***[or planned community]***, and the continuing administration
32 thereof shall be consistent with the following provisions:

33 (a) An application for tentative approval of the plan for a
34 planned unit development ***[or planned community]***, shall be filed
35 by or on behalf of the landowner;

36 (b) The application for tentative approval shall be filed by the
37 landowner or any other entity having a cognizable interest in the
38 land, in such form, upon the payment of such a reasonable fee and
39 with such official of the municipality as shall be designated in the
40 ordinance adopted pursuant to this act*, *and a copy of the plan and*
41 *said application shall be forwarded to the Division of State and*
42 *Regional Planning in the Department of Community Affairs*;*

1 (c) All planning and subdivision matters relating to the platting,
1A use and development of the planned unit development or planned
1B community and subsequent modifications of the regulations
1C relating thereto, to the extent such modification is vested in the
2 municipality, shall be determined and established by the municipal
3 authority;

4 (d) The ordinance shall require only such information in the
5 application as is reasonably necessary to disclose to the municipal
6 authority: (1) the location and size of the site and the nature of the
7 landowner's interest in the land proposed to be developed; (2) the
8 density of land use to be allocated to parts of the site to be
9 developed; (3) the location and size of any common open space and
10 the form of organization proposed to own and maintain any com-
11 mon open space; (4) the use and the approximate height, bulk and
12 location of buildings and other structures; (5) the feasibility of
13 proposals for the disposition of sanitary waste and storm water;
14 (6) the substance of covenants, grants of easements or other
15 restrictions proposed to be imposed upon the use of the land,
16 buildings and structures including proposed easements or grants
17 for public utilities; (7) the provisions for parking of vehicles and
18 the location and width of proposed streets and public ways; (8) the
19 required modifications in the municipal land use regulations other-
20 wise applicable to the subject property, and (9) in the case of
21 plans which call for development over a period of years, a schedule
22 showing the proposed times within which applications for final
23 approval of all sections of the planned unit development or planned
24 community are intended to be filed;

25 (e) The application for tentative approval of a planned unit
26 development ***[or planned community]*** shall include a written
27 statement by the landowner or any other entity having a cognizable
28 interest in the land, setting forth the reasons why, in his opinion, a
29 planned unit development ***[or planned community]*** would be in
30 the public interest and would be consistent with the municipal state-
31 ment of objectives on planned unit development ***[or planned com-**
32 **munity]***; and

33 ***[(f) The application for and tentative and final approval of a**
34 **plan for a planned unit development or planned community pre-**
35 **scribed in this act shall be in lieu of all other procedures or**
36 **approvals otherwise required pursuant to P. L. 1953, chapter 433**
37 **(C. 40:55-1.1 et seq.).]***

38 **(f) The procedures and approvals provided herein for tentative*
39 *and final approval of a plan for a planned unit development, and ap-*
40 *plications for such tentative and final approval, shall be in lieu of*
41 *all procedures and approvals specified in sections 13, 14, 15, 17,*
42 *18, and 21 of chapter 433 of the laws of 1953.**

1 6. Public hearings. (a) Within 45 days after the filing of an
1A application pursuant to section 5, a public hearing on said applica-
1B tion shall be held by the municipal authority, public notice of which
1C hearing shall be given in the manner prescribed in Revised Statutes
1D 40:55-34, et seq., for hearings on amendments to a zoning ordi-
1E nance. The chairman, or, in his absence, the acting chairman, of
1F the municipal authority may administer oaths and compel the
2 attendance of witnesses. All testimony by witnesses at any hearing
3 shall be given under oath and every party of record at a hearing
4 shall have the right to cross-examine adverse witnesses.

5 (b) A transcript of the hearing shall be caused to be made by
6 the municipal authority, copies of which shall be made available at
7 cost to any party to the proceedings, and all exhibits accepted in
8 evidence shall be identified and duly preserved, or, if not accepted
9 in evidence, shall be properly identified and the reason for the
10 exclusion clearly noted in the record. Where there is a municipal
11 planning staff the ordinance shall require that a report on the pro-
12 posed planned unit development by the staff shall be prepared and
13 filed with the authority designated to act, not less than 5 days
14 before the public hearing and available for public inspection during
15 reasonable hours.

16 (c) The municipal authority may continue the hearing from
17 time to time, and the municipal authority may refer the matter back
18 to the planning staff of the municipality for a further report, a
19 copy of which shall be filed of record without delay, provided, how-
20 ever, that in any event, the public hearing or hearings shall be con-
21 cluded within 45 days after the date of the first public hearing,
22 unless the landowner shall consent in writing to an extension of
23 time within which the hearing shall be concluded.

24 7. The findings.

25 (a) The municipal authority shall, within 60 days following the
26 conclusion of the public hearing provided for in section 6, by written
27 resolution either (1) grant tentative approval of the plan as sub-
28 mitted, (2) grant tentative approval subject to specified conditions
29 not included in the plan as submitted, or (3) deny tentative
30 approval to the plan. Failure of the municipal authority to so act
31 within said period shall be deemed to be a grant of tentative
32 approval of the plan as submitted. In the event tentative approval
33 is granted, other than by lapse of time, either of the plan as sub-
34 mitted or of the plan with conditions, the municipal authority shall,
35 as part of its resolution, specify the drawings, specifications and
36 form of performance bond that shall accompany an application
37 for final approval. In the event tentative approval is granted sub-

1 ject to conditions, the landowner shall, within 45 days after receiv-
1A ing a copy of the written resolution of the municipal authority,
1B notify the municipal authority of his acceptance of or his refusal
1C to accept all said conditions. In the event the landowner refuses to
1D accept all said conditions the municipal authority shall be deemed
1E to have denied tentative approval of the plan. In the event the
1F landowner does not, within said period, notify the municipal author-
2 ity of his acceptance of or his refusal to accept all said conditions,
3 tentative approval of the plan, with all said conditions, shall stand
4 as granted. Nothing contained herein shall prevent the municipal
5 authority and the landowner from mutually agreeing to a change
6 in such conditions, and the municipal authority may, at the request
7 of the landowner, extend the time during which the landowner
8 shall notify the authority of his acceptance or refusal to accept the
9 conditions.

10 (b) The grant or denial of tentative approval by written resolu-
11 tion shall include not only conclusions but also findings of fact
12 related to the specific proposal and shall set forth the reasons for
13 the grant, with or without conditions, or for the denial, and said
14 resolution shall set forth with particularity in what respects the
15 plan would or would not be in the public interest including but not
16 limited to findings of fact and conclusions on the following:

17 (1) In what respects the plan is or is not consistent with the
18 statement of objectives of a planned unit development;

19 (2) The extent to which the plan departs from zoning and
20 subdivision regulations otherwise applicable to the subject
21 property, including but not limited to density, bulk and use,
22 and the reasons why such departures are not deemed to be in
23 the public interest;

24 (3) The purpose, location and amount of the common open
25 space in the planned unit development, the reliability of the
26 proposals for maintenance and conservation of the common
27 open space, and the adequacy or inadequacy of the amount and
28 purpose of the common open space as related to the proposed
29 density and type of development;

30 (4) The physical design of the plan and the manner in which
31 said design does or does not make adequate provision for
32 public services, provide adequate control over vehicular traffic,
33 and further the amenities of light and air, recreation and
34 visual enjoyment;

35 (5) The relationship, beneficial or adverse, of the proposed
36 planned unit development to be neighborhood in which it is
37 proposed to be established; and

1 (6) In the case of a plan which proposes development over a
1A period of years, the sufficiency of the terms and conditions
1B intended to protect the interests of the public and of the
1C residents and owners of the planned unit development in the
1D integrity of the plan.

1E (c) In the event a plan is granted tentative approval, with or
1F without conditions, the municipal authority shall set forth in the
2 written resolution the time within which an application for final
3 approval of the plan shall be filed or, in the case of a plan which
4 provides for development over a period of years, the periods of
5 time within which applications for final approval of each part
6 thereof shall be filed. The time so established between grant of
7 tentative approval and an application for final approval shall not
8 be less than 3 months and, in the case of developments over a period
9 of years, the time between applications for final approval of each
10 part of a plan shall be not less than 6 months; provided nothing
11 herein contained shall be construed to limit a landowner from the
12 presentation of any application for final approval earlier than the
13 time period hereinabove set forth.

14 8. Status of plan after tentative approval.

15 (a) Within 5 working days after the adoption of the written
16 resolution provided for in section 7, it shall be certified by the clerk
17 of the municipality and shall be filed in his office, and a certified
18 copy shall be mailed to the landowner. Where tentative approval
19 has been granted, the same shall be noted on the zoning map main-
20 tained in the office of the clerk of the municipality.

21 (b) Tentative approval of a plan shall not qualify a plat of the
22 planned unit development for recording nor authorize development
23 or the issuance of any building permits. A plan which has been
24 given tentative approval as submitted, or which has been given
25 tentative approval with conditions which have been accepted by
26 the landowner (and provided that the landowner has not defaulted
27 nor violated any of the conditions of the tentative approval), shall
28 not be modified, revoked or otherwise impaired by action of the
29 municipality pending an application or applications for final
30 approval, without the consent of the landowner, provided an appli-
31 cation for final approval is filed or, in the case of development
32 over a period of years, provided applications are filed, within the
33 periods of time specified in the resolution granting tentative
34 approval.

35 (c) In the event that a plan is given tentative approval and
36 thereafter, but prior to final approval, the landowner shall elect
37 to abandon part or all of said plan and shall so notify the municipal

1 authority in writing, or in the event the landowner shall fail to file
1A application or applications for final approval within the required
1B period of time or times, as the case may be, the tentative approval
1C shall be deemed to be revoked and all that portion of the area
1D included in the plan for which final approval has not been given
1E shall be subject to those local ordinances applicable thereto, as they
1F may be amended from time to time, and the same shall be noted on
2 the zoning map in the office of the clerk of the municipality and in
3 the records of the clerk of the municipality.

4 9. Application for final approval.

5 (a) An application for final approval may be for all the land
6 included in a plan or, to the extent set forth in the tentative
7 approval, for a section thereof. Said application shall be made to
8 the official of the municipality designated by the ordinance and
9 within the time or times specified by the resolution granting tenta-
10 tive approval. The application shall include such drawings, speci-
11 fications, covenants, easements, conditions and form of performance
12 bond as were set forth by written resolution of the municipal
13 authority at the time of tentative approval. A public hearing on an
14 application for final approval of the plan, or part thereof, shall not
15 be required, provided the plan, or the part thereof, submitted for
16 final approval, is in substantial compliance with the plan thereto-
17 fore given tentative approval.

18 (b) A plan submitted for final approval shall be deemed to be in
19 substantial compliance with the plan previously given tentative
20 approval provided any modification by the landowner of the plan as
21 tentatively approved does not: (1) vary the proposed gross resi-
22 dential density or intensity of use by more than 5%; or (2) involve
23 a reduction of the area set aside for common open space nor the
24 substantial relocation of such area; nor (3) increase by more than
25 10% the floor area proposed for nonresidential use; nor (4) in-
26 crease by more than 5% the total ground areas covered by buildings
27 nor involve a substantial change in the height of buildings. A public
28 hearing shall not be held to consider modifications in the location
29 and design of streets or facilities for water and for disposal of
30 storm water and sanitary sewerage.

31 (c) A public hearing shall not be held on an application for final
32 approval of a plan when said plan as submitted for final approval
33 is in substantial compliance with the plan as tentatively approved.
34 The burden shall nevertheless be upon the landowner to show the
35 municipal authority good cause for any variation between the plan as
36 tentatively approved and the plan as submitted for final approval.
37 In the event a public hearing is not required for final approval,

1 and the application for final approval has been filed, together with
1A all drawings, specifications and other documents in support thereof,
1B and as required by the resolution of tentative approval, the municipi-
1C pality shall, within 45 days of such filing, grant such plan final
1D approval; provided, however, that, in the event the plan as sub-
1E mitted contains variations from the plan given tentative approval
1F but remains in substantial compliance with the plan as submitted
2 for tentative approval, the municipal authority may after a meeting
3 with the landowner, refuse to grant final approval and shall, within
4 45 days from the filing of the application for final approval, so
5 advise the landowner in writing of said refusal, setting forth in
6 said notice the reasons why one or more of said variations are not
7 in the public interest. In the event of said refusal the landowner
8 may (1) file his application for final approval without the varia-
9 tions objected to by the municipal authority on or before the last
10 day of the time within which he was authorized by the resolution
11 granting tentative approval to file for final approval, or within 30
12 days from the date he received notice of said refusal, whichever
13 date shall last occur; or (2) treat the refusal as a denial of final
14 approval and so notify the municipal authority.

15 (d) In the event the plan as submitted for final approval is not
16 in substantial compliance with the plan as given tentative approval,
17 the municipal authority shall, within 45 days of the date the
18 application for final approval is filed, so notify the landowner in
19 writing, setting forth the particular ways in which the plan is not
20 in substantial compliance. The landowner may: (1) treat said
21 notification as a denial of final approval; or (2) refile his plan in a
22 form which is in substantial compliance with the plan as tentatively
23 approved; or (3) file a written request with the municipal authority
24 that it hold a public hearing on his application for final approval.
25 If the landowner shall elect either alternative (2) or (3) above he
26 may refile his plan or file a request for a public hearing, as the case
27 may be, on or before the last day of the time within which he was
28 authorized by the resolution granting tentative approval to file for
29 final approval, or 30 days from the date he receives notice of said
30 refusal, whichever date shall last occur. Any such public hearing
31 shall be held within 30 days after request for the hearing is made
32 by the landowner, and notice thereof shall be given and the hearings
33 shall be conducted in the manner prescribed in section 6 of this
34 act. Within 45 days after the conclusion of the hearing, the municipi-
35 pal authority shall by resolution either grant final approval to the
36 plan or deny final approval to the plan. The grant or denial of final
37 approval of the plan shall, in cases arising under this paragraph

1 (d), be in the form and contain the findings required for a resolu-
1A tion on an application for tentative approval set forth in section
1B 6 of this act.

1C (e) In the event the municipal authority fails to act, either by
1D grant or denial of final approval of the plan within the time pre-
1E scribed, the landowner may, after 20 days' written notice to the
1F municipal authority, file a complaint in the Superior Court, Law
2 Division, and upon showing that the municipal authority has
3 failed to act either within the time prescribed, or subsequent to the
4 receipt of the written notice provided for in this paragraph (e) and
5 that the landowner has complied with the procedures set forth in
6 this section 9, the plan shall be deemed to have been finally
7 approved and the court shall, upon a summary proceeding, enter
8 an order directing the county clerk to record the plan as submitted
9 for final approval without the approval of the municipal authority.
10 A plan so recorded shall have the same force and effect as though
11 that plan had been given final approval by the municipal authority.

12 (f) A plan, or any part thereof, which has been given final
13 approval by the municipal authority shall be so certified without
14 delay by the clerk of the municipality and shall be filed of record
15 forthwith in the office of the county clerk before any development
16 shall take place in accordance therewith. Upon the filing of record
17 of the plan all other ordinances and subdivision regulations other-
18 wise applicable to the land included in the plan shall cease to apply
19 thereto. Pending completion within 5 years of said planned unit
20 development or of that part thereof, as the case may be, that has
21 been finally approved, no modification of the provisions of said
22 plan, or part thereof, as finally approved, shall be made nor shall
23 it be impaired by act of the municipality, except with the consent of
24 the landowner.

25 (g) In the event that a plan, or a section thereof, is given final
26 approval and thereafter the landowner shall abandon said plan
27 or the section thereof that has been finally approved, and shall so
28 notify the municipal authority in writing; or, in the event the land-
29 owner shall fail to commence the planned unit development within
30 18 months after final approval has been granted, then and in that
31 event such final approval shall terminate and be deemed null and
32 void unless such time period is extended by the municipal authority
33 upon written application of the landowner.

34 10. Judicial review. Any decision of the municipal authority
35 under this act granting or denying tentative approval of a plan or
36 authorizing or refusing to authorize a modification in a plan shall
37 be deemed to be a final administrative decision and shall be subject
38 to judicial review.

1 11. Definitions.

1A (a) "Common open space" is a parcel or parcels of land or an
 1B area of water, or a combination of land and water within the site
 1C designated for a planned unit development, and designed and in-
 1D tended for the use or enjoyment of residents and owners of the
 1E planned unit development. Common open space may contain such
 2 complementary structures and improvements as are necessary and
 3 appropriate for the benefit and enjoyment of residents and owners
 4 of the planned unit development.

5 (b) "Landowner" shall mean the legal or beneficial owner or
 6 owners of all of the land proposed to be included in a planned unit
 7 development. The holder of an option or contract to purchase, or
 8 other person having an enforceable proprietary interest in such
 9 land, shall be deemed to be a landowner for the purposes of this
 10 act.

11 *[(c) "Municipal authority" shall mean the municipality's
 12 legislative body, or any officer, board or other body designated by
 13 it to administer the ordinance adopted pursuant to this act.]*

14 *(c) "*Municipal authority*" shall mean the governing body of
 15 a municipality, or the planning board continued or created by a
 16 municipality pursuant to chapter 433 of the laws of 1953, which
 17 shall administer any ordinance adopted pursuant to this act.*

18 (d) "Plan" shall mean the provisions for development of a
 19 planned unit development, including a plat of subdivision, all
 20 covenants relating to use, location and bulk of buildings and other
 21 structures, intensity of use or density of development, private
 22 streets, ways and parking facilities, common open space and public
 23 facilities. The phrase "provisions of the plan" when used in this
 24 act shall mean the written and graphic materials referred to in this
 25 definition.

26 (e) "Planned unit development" or, in the alternative, "planned
 27 community" or "new town" is an area of land, controlled by a
 28 landowner, to be developed as a single entity for a number of
 29 dwelling units, including commercial and industrial uses, if any, the
 30 plan for which does not correspond in lot size, bulk or type of dwell-
 31 ing or commercial or industrial use, density, lot coverage and re-
 32 quired open space to the regulations established in any one or more
 33 districts created, from time to time, under the provisions of a
 34 municipal zoning ordinance enacted pursuant to Revised Statutes
 35 40:55-30, et seq.

36 (f) "Statement of objectives for planned unit development"
 37 shall be a written statement of the goals of the municipality with
 38 respect to land use for various purposes, density of population,

1 direction of growth, location and function of streets and other
2 public facilities, and common open space for recreation or visual
3 benefit, or both, and such other factors as the municipality may find
4 relevant in determining whether a planned unit development,
5 planned community or new town shall be authorized.

6 12. Any municipality may avail itself of the powers granted
7 herein in whole or in part. Nothing contained herein shall pre-
8 clude the creation of planned industrial development districts,
9 planned commercial development districts, or the placing of various
10 kinds of planned districts within one development.

11 **13. This act shall be construed most favorably to municipalities,*
12 *its intention being to give all municipalities the fullest and most*
13 *complete powers possible concerning the subject matter hereof.*

14 *Should any section or provision of this act be held to be uncon-*
15 *stitutional or invalid, such determination shall not affect the con-*
16 *stitutionality or validity of the remainder hereof.**

17 ***[13.]** **14.** This act shall be known and may be cited as the
18 "Municipal Planned Unit Development Act (1967)."

19 ***[14.]** **15.** This act shall take effect immediately.